

The Honorable Ricardo S. Martinez

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

Eon-Net, L.P.,

Plaintiff,

v.

Flagstar Bancorp,

Defendant.

**CASE NO. C 05-2129 RSM**

**STIPULATION OF NON-  
INFRINGEMENT AND OF  
DISMISSAL WITHOUT PREJUDICE  
OF COUNTERCLAIMS AND  
DEFENSES CONCERNING  
INVALIDITY**

1 Plaintiff Eon-Net, L.P. (“Eon-Net”), by and through its counsel, and Defendant Flagstar  
 2 Bancorp, Inc. (“Flagstar”), by and through its counsel, hereby stipulate to entry of a judgment of  
 3 non-infringement by Flagstar of United States Patent Nos. 6,683,697, 7,075,673, and 7,184,162  
 4 (collectively “the Patents”), based on the Court’s Order on Claim Construction of March 4, 2009.  
 5 This stipulation is made subject to Eon-Net’s reservation of its right to appeal the Court’s  
 6 constructions of claim terms of the Patents.

7 Eon-Net and Flagstar, by and through their respective counsel, also hereby stipulate to  
 8 the dismissal without prejudice of Flagstar’s counterclaims and defenses involving invalidity of  
 9 the Patents. The stipulation of dismissal without prejudice is made subject to Flagstar’s  
 10 reservation of its rights to reassert such counterclaims and defenses should Eon-Net’s  
 11 infringement claim regarding the Patents be revived for any reason (including but not limited to  
 12 modification of the Court’s claim constructions on appeal).

13 Further, should the Court’s *Markman* decision be altered on appeal, nothing herein shall  
 14 be deemed an admission by Eon-Net that Flagstar is entitled to judgment of non-infringement  
 15 based upon the altered claim construction of the claims.

16 Respectfully submitted, this 27th day of March, 2009.

17  
 18 DATED: March 27, 2009

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1 DATED: March 27, 2009

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15 SO ORDERED this \_\_\_\_ day of \_\_\_\_\_, 2009.

18 Hon. Ricardo S. Martinez, U.S.D.J.